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12 California Department of Corrections and
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13 Spearman, and Chamberlain*

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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17 OAKLAND DIVISION
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19 **DWAIN WILLIAMS, BY AND THROUGH HIS**
20 **GUARDIAN AD LITEM, SHARYN WILLIAMS,**

21 Plaintiff,

22 v.

23 **STATE OF CALIFORNIA, et al.,**

24 Defendants.
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17-cv-02511-HSG

**ORDER AND STIPULATION
CONCERNING THE LIMITED
EVIDENTIARY HEARING**

Time: 1:00 p.m.
Dept: Courtroom 2, 4th Fl.
Judge: The Honorable Haywood S.
Gilliam, Jr.
Trial Date: n/a
Action Filed: 5/8/2017

BACKGROUND

This matter is still in the pleading stages and formal discovery has not begun. The Court has set a limited evidentiary hearing to address Defendants' motion for summary judgment "regarding whether Plaintiff exhausted his administrative remedies under the Prison Litigation Reform Act. *See* Dkt. No. 8 (pending motion for summary judgment); *cf Albino v. Baca*, 747 F.3d 1162, 1168 (9th Cir. 2014) (permitting limited preliminary proceeding to "decide disputed questions of fact")." (Ct. Order, ECF No. 19.)

The hearing is to be "limited to whether Plaintiff filed any inmate appeals with the Soledad Correctional Training Facility after January 6, 2016, the date of his alleged incapacity. *See* Dkt. No. 10 at 5; Dkt. No. 1-1 ¶¶ 11, 17-18, 30. This includes the two inmate appeals, dated August 26, 2016, and September 16, 2016, that Defendants filed as Exhibit B to their reply brief in support of the pending motion. *See* Dkt. No. 13-2, Ex. B." (*Id.*)

"To guide this limited inquiry, Defendants should prepare the following witnesses: (1) the custodian of records for the Soledad Correctional Training Facility who can authenticate and testify about the processing of the two above-referenced inmate appeals; (2) all individuals who assisted Plaintiff in filing the above-referenced inmate appeals; and (3) someone who can describe the process by which a third-party outside the Soledad Correctional Training Facility can assist inmates in preparing and filing an inmate appeal, as permitted by Title 15 of the California Code of Regulations, § 3084.2." (*Id.*)

The Court initially set a September 20, 2017 evidentiary hearing. (*Id.*) Plaintiff's Counsel, however, advised the Court of his conflicts with the September 20, 2017 hearing date during a telephone case management conference on August 25, 2017. (*See* ECF No. 27.) The Court ordered the parties to meet and confer concerning this matter and to submit a proposed schedule. The parties have conferred and submit the following stipulation to the Court.

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October 6, 2017	Disclosure of Potential Witnesses and Exhibits
October 27, 2017	Limited Evidentiary Hearing 1:00 p.m., Courtroom 2, 4 th Fl. 1301 Clay Street, Oakland, CA 94612

IT IS SO STIPULATED.

Dated: _____

By: KHOA D. LE
Attorney for Plaintiff Dwain Williams

Dated: _____

By: _____
TRACE O. MAIORINO
Deputy Attorney General
*Attorneys for State of California, California
Department of Corrections and
Rehabilitation, Correctional Training
Facility, Spearman, and Chamberlain*

1 **ORDER**

2 In light of the stipulation between the parties, the Court vacates its order setting a
3 September 20, 2017 limited evidentiary hearing and orders the following schedule:

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5 October 6, 2017	Disclosure of Potential Witnesses and Exhibits
6 October 27, 2017	Limited Evidentiary Hearing 1:00 p.m., Courtroom 2, 4 th Fl. 1301 Clay Street, Oakland, CA 94612

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9 IT IS SO ORDERED.

10 Dated: September 12, 2017

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12 HONORABLE HAYWOOD S. GILLIAM, JR.
13 United States District Judge
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